

1 F5keshc

2 stipulation. (Pause)

3 Let me just confirm with each counsel that they have,  
4 in fact, signed this stipulation. I'm going to ask Ms. Hummel  
5 to mark this as Court Exhibit 1. And we will make copies of  
this overnight so each party has a copy of it.

6 But just for the record, this is a stipulation  
7 entitled Joint Stipulation of Facts and Admissibility of  
8 Exhibits. On its face it appears to be a stipulation between  
9 Mr. Kapur, the SEC and counsel for the Schwarzes, to the effect  
10 that the final judgment was entered in the SEC case; that  
11 Mr. Kapur had notice of it; and that he has not made payments  
12 towards it. Those are the three facts, if you will, that are  
13 stipulated to.

14 And then the stipulation goes on to stipulate to the  
15 admissibility of Exhibits numbered SEC 1 through 30 inclusive,  
16 and then Schwarz 1, and then a Defendant's 1 through 10.

17 At the end of the exhibit are the signatures of  
18 Mr. Roessner for the SEC, Mr. Solotaroff for the Schwarz  
19 plaintiffs and Mr. Kapur. Just going around the horn, let me  
20 make sure that these are, in fact, your signatures.

21 Mr. Roessner, this appears to be actually an  
22 electronic signature of yours. Is that your signature?

23 MR. ROESSNER: Yes, your Honor. It's my electronic  
24 signature.

25 THE COURT: Very good. Mr. Solotaroff, is it your  
SOUTHERN DISTRICT REPORTERS, P.C.  
(212) 805-0300

1 F5keschc  
2 signature?  
3 MR. SOLOTAROFF: Yes, Judge.  
4 THE COURT: And, Mr. Kapur, is it your signature?  
5 MR. KAPUR: Yes, Judge.  
6 THE COURT: I'm happy to receive, then, Government  
7 Exhibit 1. And I will receive all the exhibits that are  
8 referenced here, as well as take notice of the facts that are  
9 stipulated to.  
10 (Court Exhibits 1 received in evidence)  
11 THE COURT: I may have referred to it as Government  
12 Exhibit 1. My bad. Court Exhibit 1. Go ahead.  
13 MR. ROESSNER: Your Honor, we have two additional  
14 housekeeping matters.  
15 The exhibits that we supplied to the Court, we have an  
16 addendum, Exhibit 7. Exhibit 7 is one of the Mossack metadata  
17 e-mails. There's additional e-mails to supply to the back of  
18 Exhibit 7. And the parties have all looked at it. If I can  
19 provide these two to be inserted behind Exhibit 7.  
20 THE COURT: Are these stipulated to? Are these part  
21 of the exhibit?  
22 MR. ROESSNER: Yes, your Honor. I did it out of  
23 order. I should have done this part first. I'm sorry.  
24 THE COURT: So this goes at the back of Exhibit 7 in  
25 the binder?  
MR. ROESSNER: I'm sorry. Mr. Solotaroff advised the  
SOUTHERN DISTRICT REPORTERS, P.C.  
(212) 805-0300

1 F5keschc  
2 front of Exhibit 7.  
3 THE COURT: Thank you. All right. And let me just go  
4 around the horn again to make sure.  
5 Mr. Solotaroff, you agree that the document that is  
6 being handed up to me that is basically being appended to the  
7 front of Exhibit 7 is within the scope of your stipulation?  
8 MR. SOLOTAROFF: Yes, Judge.  
9 THE COURT: Mr. Kapur, same for you?  
10 MR. KAPUR: Yes, your Honor.  
11 THE COURT: Thank you.  
12 MR. ROESSNER: Your Honor, I have one other additional  
13 document to append, and I'm sorry. It's Exhibit 20.  
14 THE COURT: Go ahead.  
15 MR. ROESSNER: It's the CHIPS document. That was the  
16 only exhibit we submitted to the Court that did not have the  
17 business record declaration. And CHIPS have provided that to  
18 me last night. I wanted to include it. When CHIPS provides  
19 documents, they typically produce it in an Excel spreadsheet  
20 format. But when they give you a records declaration, they  
21 provide it in the wire transfer. It's the typical wire  
22 transfer, what you would see. And they have printed that out  
23 for me. So I want to include that in the front of the CHIPS  
24 database, because it has the declaration of the custodian.  
25 Although we've agreed to the admissibility, I still want to  
have that in there.

SOUTHERN DISTRICT REPORTERS, P.C.  
(212) 805-0300

F5keschc

1 THE COURT: But that is the front of Exhibit 20?

2 MR. ROESSNER: Exactly, your Honor.

3 THE COURT: Again, let me ask Mr. Solotaroff, do you  
4 agree this is also properly part of Exhibit 20?

5 MR. SOLOTAROFF: Yes, Judge.

6 THE COURT: Mr. Kapur, you, too, do you also agree?

7 MR. KAPUR: Yes, your Honor.

8 THE COURT: Very good. We'll need to three-hole punch  
9 this, but thank you. Thank you.

10 With that, SEC, I'm going to invite you then to call  
11 your first witness. Just so that everyone is aware, what we'll  
12 do is after the SEC is done with its case, and after all  
13 examinations are done of the SEC witnesses, we'll then turn to  
14 you, Mr. Solotaroff, if you have anything else to offer. And  
15 after that, Mr. Kapur.

16 Go ahead.

17 MR. ROESSNER: Your Honor, we'd like to call Brad  
18 Mroski. The commission calls Brad Mroski to the stand.

19 One other little glitch, your Honor. We at the  
20 commission provided Mr. Kapur with a copy of the binder. He  
21 didn't receive it yesterday. And I have given him, the  
22 witness, copy of the exhibits. So we're just going to have to  
23 kind of shuffle to make sure that the witness could take a look  
24 at them.

25 MR. SOLOTAROFF: Judge, I'll give -- I'm probably okay  
SOUTHERN DISTRICT REPORTERS, P.C.  
(212) 805-0300

1 F5keschc  
2 without it.  
3 THE COURT: Mr. Solotaroff is graciously offering his  
4 copy of the exhibit so everyone can look on. Thank you,  
Mr. Solotaroff.

5 Mr. Mroski, welcome to the court. I'll ask you to  
6 keep your voice up so that everyone can hear you.

7 Mr. Roessner you may inquire.

8 MR. ROESSNER: Thank you, your Honor.

9 BRAD MROSKI,

10 called as a witness by the Government,  
11 having been duly sworn, testified as follows:

12 DIRECT EXAMINATION

13 BY MR. ROESSNER:

14 Q. Mr. Mroski, can you state your full name for the record.

15 A. Brad Alan Mroski.

16 Q. Where are you employed?

17 A. The United States Securities and Exchange Commission.

18 Q. What's your job title?

19 A. Assistant chief accountant in the division of enforcement.

20 Q. What are your job duties at the commission?

21 A. To perform financial and accounting fraud investigations,  
supervise investigations and consult on investigations.

22 Q. How long have you been employed by the commission?

23 A. It will be five years in August.

24 Q. Before you joined the commission where did you work?

SOUTHERN DISTRICT REPORTERS, P.C.

(212) 805-0300

1 F5keschc Mroski - direct  
2 A. Deloitte & Touche.  
3 Q. And what was your job title?  
4 A. My most recent was senior manager in forensics and dispute  
5 consulting services.  
6 Q. What are your job responsibilities?  
7 A. Primarily to perform financial and accounting fraud  
8 investigations, internal investigations, litigation and dispute  
9 consulting, antifraud programs and controls consulting.  
10 Q. Mr. Mroski, do you hold any licenses?  
11 A. Yes, I do.  
12 Q. What are they?  
13 A. I'm a Certified Public Accountant, licensed in Texas and  
14 Colorado, and a Certified Fraud Examiner.  
15 Q. How did you get your Certified Fraud Examiner license?  
16 A. Through examination.  
17 Q. Now, in this matter what were you asked to do?  
18 A. I was asked to review Ms. Bina Rai's Bank of America  
19 account statements for the account ending in 293 for the period  
20 August of 2011 to March of 2013 -- excuse me, '13.  
21 THE COURT: August 2011 through March of 2013?  
22 THE WITNESS: That's correct.  
23 THE COURT: Thank you.  
24 Q. What account number did you say?  
25 A. I can't remember the entire account number. It ended in  
283, Bank of America account number 283. And to review and

SOUTHERN DISTRICT REPORTERS, P.C.

(212) 805-0300

F5keschc Mroski - direct  
1 determine if there were any wires into that account, and if  
2 there were, the source of those wires.

3 Q. What did you review to make this determination?

4 A. I reviewed Ms. Rai's bank account statements, primarily to  
5 make that determination. And then to determine the source, I  
6 reviewed CHIPS information as well.

7 THE COURT: What is CHIPS information?

8 THE WITNESS: CHIPS is the Clearing House for  
9 International Payment Services. It's an electronic funds  
10 transfer organization that moves money. So they keep records  
11 on the sending institutions, receiving institution, information  
12 such as that.

13 THE COURT: But in other words, they focus on the  
14 international transfers, not on the account statements?

15 THE WITNESS: That's correct. They are the highway,  
16 so to speak, between the two destinations.

17 THE COURT: Thank you.

18 BY MR. ROESSNER:

19 Q. Did you reach a determination?

20 A. Yes, I did.

21 Q. What was that?

22 A. Over that period there were two wires received into  
23 Ms. Rai's account that originated from Bank Vontobel.

24 MR. ROESSNER: Your Honor, if I can approach the  
25 witness and provide him with Exhibit 20.

SOUTHERN DISTRICT REPORTERS, P.C.

(212) 805-0300

1 F5keschc

Mroski - direct

2 THE COURT: Yes.  
3 MR. ROESSNER: Sorry. I don't think it has the new  
addendum.

4 THE COURT: To be clear, you're handing up the  
5 entirety of Exhibit 20 in evidence, which includes the  
6 declaration that was handed up this morning, and added to the  
7 sort of previous Exhibit 20 from Alaina Gimbert of the clearing  
8 house payments company, and as well as what was behind it, the  
9 horizontal charts? Mr. Roessner?

10 MR. ROESSNER: That's right, your Honor.

11 THE COURT: Thank you.

12 BY MR. ROESSNER:

13 Q. Mr. Mroski, can you identify Exhibit 20?

14 A. Yes. This is the wire remittances provided by CHIPS for  
15 the funds in question.

16 Q. And have you seen an Excel spreadsheet version of these  
17 wires?

18 A. I've seen an Excel spreadsheet that captures these  
19 particular wires, yes.

20 Q. Now, looking through this document, can you identify the  
21 transfers that took place on -- sorry. Let me start, rephrase.  
22 Let me rephrase that.

23 On this wire transfer, what does this show?

24 A. Perhaps the easiest way is to go to the first transfer.  
25 And the --

SOUTHERN DISTRICT REPORTERS, P.C.  
(212) 805-0300

1 F5keschc

Mroski - direct

2 THE COURT: What page is that?  
3 THE WITNESS: That would be page -- pages aren't  
4 numbered, your Honor, but page two and three of the stapled  
copy. So after the declaration, first page.

5 THE COURT: Yes.

6 THE WITNESS: And the third page, so starting on the  
7 second page, this is an original transfer. If you look up in  
8 the right-hand corner, it says \$75,565. That's the amount of  
9 the funds being transferred.

10 Staying on the right-hand side, if you go down to the  
11 last line in the largest paragraph, it says message pay date,  
12 2011, August 18th. That's the date that the funds were wired.  
13 Your Honor, if it please the Court --

14 THE COURT: So August 18, 2011. Go ahead.

15 THE WITNESS: If it please the Court, I'll go through  
16 the information that I believe is pertinent on this document.

17 THE COURT: Yes, by all means.

18 THE WITNESS: Moving down now to the left side, you  
19 can see information BNF CHIPS supplied. That is the entity.  
20 That's the benefactor, the receiver of the funds. The first  
21 number underneath that is C002340. That is a CHIPS unique  
22 identifier associated with HSBC bank. The second --

23 THE COURT: Sorry. I don't see, 2340. I see. Yes.  
24 Go ahead.

25 THE WITNESS: The number right underneath that, ending  
SOUTHERN DISTRICT REPORTERS, P.C.  
(212) 805-0300

1 F5keschc Mroski - direct  
2 in 868, is the actual account number associated with that  
3 benefactor account.

4 And the third number underneath that ending in B22 is  
5 a swift unique identifier for the bank, also identified with  
HSBC.

6 THE COURT: Sorry. That's a unique identifier for the  
7 bank or bank account?

8 THE WITNESS: The bank, your Honor.

9 THE COURT: Okay.

10 THE WITNESS: And you can clearly see right below that  
11 it actually lists the name of HSBC bank.

12 THE COURT: So \$75,565 come into account -- the  
13 account ending in 868 at HSBC bank in England on August 18,  
14 2011?

15 THE WITNESS: Yes, your Honor.

16 THE COURT: Okay.

17 THE WITNESS: Moving over to the right, you see ORG  
18 CHIPS supplied. That's the originating institution that's  
19 sending the funds. The same convention applies for the three  
20 numbers underneath that. The account number that the funds are  
21 being sent from ends in 298. And the sending institution is  
22 Bank Vontobel in Zurich, Switzerland.

23 Moving back to the left, and below the HSBC bank  
24 information, there is additional payment data. This represents  
25 data that is being sent -- it's a swift code. It's

SOUTHERN DISTRICT REPORTERS, P.C.

(212) 805-0300

1 F5keschc Mroski - direct  
2 communication from the sending bank to the receiving bank and  
3 specific instructions for this particular transaction. You'll  
4 see underneath 820 there is a code, 50K. That is the swift key  
code for message from the ordering customer.

5 And then about halfway down that paragraph, on the far  
6 left, you'll see the numbers 59, a colon and a forward slash.  
7 That is swift bank's key code for message to receiving  
8 customer. So back up at the 50K, the message is Family and  
9 Children Charitable Foundation.

10 THE COURT: That's the receiving customer?

11 THE WITNESS: That's the sending customer, your Honor.

12 THE COURT: I'm sorry. Forgive me. Yes.

13 THE WITNESS: And under 59 the receiving customer is  
14 the Winterbotham Trust Company.

15 THE COURT: Okay.

16 THE WITNESS: So in totality, what this particular  
17 transaction is telling me is that \$75,565 was sent on  
18 August 18th of 2011 from the Family and Children's Charitable  
19 Foundation account at Bank Vontobel to the Winterbotham Trust  
20 Company account at -- which was held with HSBC.

21 Moving on to the second page -- or, excuse me, the  
22 third page in the packet, up at the top, the amount of this  
23 transaction is \$74,817.70. You can see the transaction  
24 occurred on August 23rd of 2011.

25 Going down to the beneficiary, the receiver of the  
SOUTHERN DISTRICT REPORTERS, P.C.  
(212) 805-0300

1 F5keschc Mroski - direct  
2 funds, this is the bank account Bank of America that was asked  
3 to review ending in 283 in the name of Bina Rai. There's two  
3 originators --

4 THE COURT: Sorry. The 283 is on the left in the  
5 middle, halfway down?

6 THE WITNESS: Far left, yes, middle of the page.

7 THE COURT: It, in fact, says Bina Rai.

8 THE WITNESS: Yes, your Honor.

9 The next subset of information there is ORG. That's  
10 the originator. Account ending 8119, account name MossFon  
11 escrow.

12 In the third subset of data there titled OGB is the  
13 originating bank information. And that is Winterbotham Trust  
14 Company.

15 THE COURT: Winterbotham, as I understand it, was the  
16 receiver of the first payment, but the sender, the originator  
17 of the second?

18 THE WITNESS: Winterbotham was the receiver of the  
19 payment on August 18th.

20 THE COURT: Right.

21 THE WITNESS: And the sender of the payment on  
22 August 23, your Honor, yes.

23 THE COURT: Thank you.

24 BY MR. ROESSNER:

25 Q. So on this, on the third page, is there a reference there  
SOUTHERN DISTRICT REPORTERS, P.C.  
(212) 805-0300

1 F5keschc Mroski - direct  
2 to the family --  
3 THE COURT: May I just -- let me just see if I  
4 understand.  
5 What's the relationship on page three between the  
6 originator, this MossFon escrow, and OGB, the Winterbotham  
7 trust?  
8 THE WITNESS: The OGB is the originating bank.  
9 THE COURT: I see.  
10 THE WITNESS: And originator. So it would be similar  
11 to the Family and Children Charitable Foundation account --  
12 THE COURT: I see.  
13 THE WITNESS: -- at Bank Vontobel. This would be the  
14 MossFon escrow account at Winterbotham.  
15 THE COURT: I see. Thank you.  
16 In any event, MossFon is sending \$74,000 and change to  
17 Bina Rai, is the bottom line?  
18 THE WITNESS: Yes, your Honor.  
19 THE COURT: Okay.  
20 BY MR. ROESSNER:  
21 Q. Is there a reference on this page to the Family and  
22 Children Charitable Foundation?  
23 A. Yes. Down at the very bottom of page three, message input,  
24 if you go to the last line, there's -- a lot of this is just  
25 intrabank code. And the last part of that paragraph says, loan  
agreement between the Family and Children Charitable Foundation

SOUTHERN DISTRICT REPORTERS, P.C.  
(212) 805-0300

F5keschc Mroski - direct  
1 and Bina Rai.  
2 Q. You reviewed Bina Rai's bank statements?  
3 A. Yes, I did.  
4 Q. And in the August 2011 bank statement did you identify a  
5 transaction into that account for \$74,817.70?  
6 A. Yes, I did.  
7 Q. If you turn to Exhibit 18 in the binder. Is that the  
8 transaction?  
9 A. Yes.  
10 Q. Do you see it on that page?  
11 A. Yes, I do.  
12 Q. If you can turn to the next page of Exhibit 20, the CHIPS  
13 documents, which is page four on the upper right-hand corner,  
14 \$72,743?  
15 A. On the new documents that were received?  
16 Q. Yes.  
17 A. Okay.  
18 Q. Is the flow of money reflected on this document the same as  
19 on Exhibit -- on page two?  
20 A. Yes. The facts are the same. The original sending amount  
21 was for \$72,743 on January 27th of 2012 from Bank Vontobel to  
22 the Winterbotham Trust Company, with a reference to the Family  
23 and Children Charitable Foundation in the ordering customer  
24 field.  
25 And then the next page of Exhibit 20 shows \$72,000  
SOUTHERN DISTRICT REPORTERS, P.C.  
(212) 805-0300

1 F5keschc Mroski - direct  
2 being sent from the MossFon escrow SRL account at the  
3 Winterbotham Trust Company to Bina Rai's bank account ending in  
4 283.  
5 Q. And when you reviewed Bina Rai's bank statements for  
6 January 2012, did you see a transaction for \$72,000?  
7 A. Yes, I did.  
8 Q. If you could turn to Exhibit 19 in the binder. Can you  
9 identify that transaction?  
10 A. Yes. It's posted on January 31, 2012.  
11 Q. And from your review of Bina Rai's bank account, Bank of  
12 America account ending 0283, were there any other large  
13 transactions into that account, large wire transactions?  
14 A. These were the only two wires over the period that I was  
15 asked to review.  
16 Q. Were there any other large deposits into that account?  
17 A. I believe the large -- the single largest deposit, other  
18 than these two, was for \$5,000.  
19 MR. ROESSNER: Your Honor, I have no more questions  
20 for Mr. Mroski.  
21 THE COURT: Thank you.  
22 Mr. Solotaroff, any questions from you of this  
23 witness?  
24 MR. SOLOTAROFF: No, Judge.  
25 THE COURT: Okay. Mr. Kapur, it's now your  
opportunity, if you would like, to question the witness. Would  
SOUTHERN DISTRICT REPORTERS, P.C.  
(212) 805-0300

F5keschc Mroski - direct  
1 you like to do so?  
2 MR. KAPUR: Yes, your Honor. Just a few quick  
3 questions.  
4 THE COURT: Why don't you go to the microphone and do  
5 so, once Mr. Roessner has left.  
6 MR. KAPUR: Just a few quick questions, your Honor.  
7 I'm just a bit confused by the CHIPS data. I noticed on  
8 Ms. Rye's statement it says --  
9 THE COURT: If you wouldn't mind, just for the clarity  
10 of the record, just refer to it by exhibit number, please.  
11 MR. KAPUR: Sure. Your Honor, in Exhibit 18, which  
12 appears to be Bina Rai's Bank of America bank statement, it  
13 says a wire is coming in from HSBC USA. And then in Exhibit  
14 19, on Bina Rye's bank statement, it says that there's a wire  
15 coming in from Deutsche Bank Trust Company. And I'm just  
16 trying to connect the wire from Vontobel to HSBC London to the  
17 wire that's coming in to Ms. Rai's account from Deutsche Bank  
18 and HSBC US.  
19 So if you could just explain that, there seems to be  
20 like a disconnect on me on these wires between third parties.  
21 THE COURT: In other words, if the witness is able to  
22 account for why on Exhibit 18 the wire is coming from HSBC and  
23 on Exhibit 19 it's coming from Deutsche Bank, you're interested  
24 in getting an explanation from the witness? Do I understand  
25 you right?

SOUTHERN DISTRICT REPORTERS, P.C.  
(212) 805-0300

F5keschc Mroski - direct

1 MR. KAPUR: Yes, your Honor.  
2 THE COURT: Go ahead.  
3 THE WITNESS: It's my understanding that the  
4 Winterbotham Trust Company is not a CHIPS member bank. And so  
5 as a result, they need to use a correspondent bank to send  
6 money to participate. HSBC and Deutsche Bank are CHIPS member  
7 banks, and so they use those firms to move money.  
8 THE COURT: And what's your basis for that assumption?  
9 THE WITNESS: A listing of the CHIPS participant banks  
10 on their website.  
11 CROSS EXAMINATION  
12 BY MR. KAPUR:  
13 Q. Do you have a list of that with you today?  
14 A. As I sit here, no, I don't.  
15 THE COURT: Let me just follow up to assist Mr. Kapur.  
16 When was it that you checked the website to see who  
17 the corresponding banks were.  
18 THE WITNESS: I believe it was yesterday, your Honor.  
19 THE COURT: Thank you.  
20 Q. So just so I understand, you're saying that HSBC London  
21 then used Deutsche Bank or HSBC US to send the wire?  
22 A. I'm sorry. Could you repeat the question?  
23 Q. The question is that HSBC London, who received the money,  
24 then used the correspondent banks Deutsche Bank and HSBC US to  
25 send the wire to Ms. Rai?

SOUTHERN DISTRICT REPORTERS, P.C.  
(212) 805-0300

F5keschc Mroski - cross  
1 A. I'm not sure if that's the case, if it was HSBC US or if it  
2 was HSBC London. It was an HSBC entity and a Deutsche Bank  
3 entity.  
4 Q. Right. And so the HSBC London entity sent it to Deutsche  
5 Bank to send to Ms. Rai? Is that your testimony?  
6 A. For the second transaction, yes, that is.  
7 Q. I see. And who is the beneficiary of Vontobel and the HSBC  
8 banks accounts, by your CHIPS research?  
9 A. I beg your pardon?  
10 Q. Who are the beneficiaries of the Vontobel bank account and  
11 the HSBC bank accounts?  
12 THE COURT: He just didn't hear what you said. You  
13 asked who the beneficiary was of one bank account and then  
14 HSBC. I just didn't hear.  
15 MR. KAPUR: Right. The first Bank Vontobel, I was  
16 wondering if he found out through his CHIPS research who the  
17 beneficiary of Bank Vontobel and of the HSBC London bank  
18 account were.  
19 A. I don't -- if you're looking for a name, I don't have that.  
20 I have the account number. And I have the account name.  
21 Q. I see. Does the SEC have a New York office? Just a  
22 general question.  
23 A. Does the SEC have a New York office?  
24 Q. Yes.  
25 A. Yes, we do.

SOUTHERN DISTRICT REPORTERS, P.C.  
(212) 805-0300